

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOHN WILLIAM WALLACE,
Plaintiff,

vs.

UNITED STATES; STATE OF
WASHINGTON; BENTON COUNTY
SUPERIOR COURT,
Defendants.

NO. CV-06-0262-EFS

**ORDER DENYING PLAINTIFF'S MOTION
UNDER 28 U.S.C. § 2255 TO VACATE,
SET ASIDE, OR CORRECT SENTENCE BY
A PERSON IN FEDERAL CUSTODY AND
DENYING PLAINTIFF'S MOTION FOR
ORDER OF RELEASE AND ENTERING
JUDGMENT AGAINST PLAINTIFF**

BEFORE THE COURT are Plaintiff John William Wallace's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Ct. Rec. 9) and Motion for an Order of Release (Ct. Rec. 15). Plaintiff filed a document labeled "Complaint" in which Plaintiff references a Benton County Superior Court Case No. 06-1-00683-0 (Ct. Rec. 3). An order in the Benton County case directed Mr. Wallace to undergo psychiatric treatment. Plaintiff is currently confined to Eastern State Hospital for a competency evaluation pending charges in Benton County Superior Court.

In Plaintiff's Motion for Order of Release, Plaintiff appears to be seeking a default judgment in his pending state court action.

1 Generally, federal courts will not intervene in pending state court
2 criminal proceedings absent extraordinary circumstances. *Younger v.*
3 *Harris*, 401 U.S. 37, 53-54 (1971). "A district court should abstain
4 under *Younger* when: (1) there are ongoing state judicial proceedings; (2)
5 the proceedings implicate important state interests; and (3) the state
6 proceedings provide the plaintiff with an adequate opportunity to raise
7 federal claims." *Meredith v. Oregon*, 321 F.3d 807, 816 (9th Cir. 2003).
8 Here, Plaintiff is subject to an ongoing state criminal proceeding,
9 Plaintiff appears to face charges of second degree assault, a matter of
10 state interest, and any issues potentially raised by Plaintiff in
11 federal court could be adequately addressed in state court. Thus, all
12 three prongs of *Younger* weigh in favor of abstention.

13 Because the Court finds abstention proper in this case, Plaintiff
14 must seek redress within the state system. Plaintiff's Motion Under 28
15 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in
16 Federal Custody and Motion for Order of Release are denied and the case
17 is dismissed.

18 Accordingly, **IT IS HEREBY ORDERED:**

19 1. Plaintiff's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside,
20 or Correct Sentence by a Person in Federal Custody (**Ct. Rec. 9**) is
21 **DENIED.**

22 2. Plaintiff's Motion for Order of Release (**Ct. Rec. 15**) is **DENIED.**

23 3. The District Court Executive is ordered to enter judgment
24 against Plaintiff and **CLOSE** this file.

25 4. Plaintiff is directed not to submit any further filings in this
26 case with the Court with the exception of a notice of appeal if
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1 Plaintiff so chooses, at which time all further filings should be
2 directed to the Ninth Circuit. If Plaintiff files additional documents
3 in this case, with the exception of a notice of appeal, the Clerk's
4 office is directed to return such filings to Plaintiff to be filed with
5 the proper court.

6 5. All pending motions are **DENIED AS MOOT**.

7 **IT IS SO ORDERED.** The District Court Executive is directed to
8 enter this Order and forward a copy to Plaintiff.

9 **DATED** this 29th day of November 2006.

10
11 S/ Edward F. Shea
12 EDWARD F. SHEA
13 UNITED STATES DISTRICT JUDGE

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